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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,063	01/11/2002	Emery C. Teichelman		4957

7590
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1800 Granger Road
Taylor, TX 76574

06/13/2003

EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

2c

Office Action Summary**Application No.**

10/043,063

Applicant(s)

TEICHELMAN, EMERY C.

Examiner

Dmitry Suhol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1 and 6, the limitation of "said adjustment is having a moveable piece of material or paper that can be raised or lowered from the bottom of the hole to change the size of the hole..." was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the material moves to alter the size of a hole (i.e. how does moving a piece of material toward or away from an opening change the size of the opening?), especially since the drawings do not appear to show any such movable/adjustment material.

Regarding claim 2, the limitation of "adjustable for different size fonts..." was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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The adjustment means was not described in the specification (or the drawings) to enable one with ordinary skill in the art to make the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Regarding claim 1, the Markush terminology is improper. The phrase "made of a material selected from the group that includes metal, aluminum, plastic and wood..." should read – made of a material selected from the group consisting of metal, aluminum, plastic and wood.

There is no antecedent basis for "the first window opening".

The phrase "can be adjustable" is not a positive limitation. An example of a positive limitation is the phrase – is adjustable.

There is no antecedent basis for "the length and width of the window opening". The figures show openings to be circular/oval, therefore it is unclear what length and width is being referred to.

There is no antecedent basis for "the best colored dots or symbols". No dots or symbols are being positively claimed. In other words, the applicant only appears to claim a tool having an elongated body, while references related to "dots or symbols" appear only in functional recitations and have not been given patentable weight.

There is no antecedent basis for "said adjustment".

There is no antecedent basis for "the hole".

The phrase "and/or" is not a positive limitation.

There is no antecedent basis for "the first and second window opening.

There is no antecedent basis for "the companion card chart", and it is not positively claimed.

It is not clear what structural features applicant is attempting to claim in bullet (a), the entire section appears to be drawn to a method of use comprising functional language and therefore has not been given any patentable weight.

Regarding claim 2, the Markush terminology is improper.

There is no antecedent basis for "the embodiment", "the second window opening height".

The structural dimensions encompassed by "large enough for one word on one line but not large enough to view two words on two lines" can't be determined. Text fonts (including sizes) and line spacing is greatly varied therefore the dimensions of a "second window" can't be determined. There is no text being positively claimed.

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Regarding claim 3, there is no antecedent basis for "a said embodiment", "the length and width of the window opening" and "the best size colored dots or symbols". The windows shown in the figures appear to be circular and oval shaped, therefore it is unclear what is meant by a length and width. The size of the openings can't be determined.

Regarding claim 4, there is no antecedent basis for "said embodiment", "the first and second openings" and "said elongated body".

Regarding claim 5, the Markush terminology is improper. There is no antecedent basis for "said companion card" and the companion card is not positively claimed.

Regarding claim 6, the phrase "can be adjustable", and "and/or" are not positive limitations.

There is no antecedent basis for "the length and width of the window opening".

There is no antecedent basis for "the best colored dots or symbols". No dots or symbols are being positively claimed. In other words, the applicant only appears to claim a tool having an elongated body, while references related to "dots or symbols" appear only in functional recitations and have not been given patentable weight.

Regarding claim 7, the claim dependency can't be determined. It appears as if applicant is trying to claim multiple dependency from claim 1 and 5 at the same time. This is not allowed unless it is in the alternative.

Regarding claim 10, the structural dimensions encompassed by "large enough for one word on one line but not large enough to view two words on two lines" can't be determined. Text fonts (including sizes) and line spacing is greatly varied therefore the dimensions of a "second window" can't be determined. There is no text being positively claimed. The features of "the height" can't be determined, it appears that the window openings of the applicants invention are circular/oval in shape, therefore the dimension referred to as the height is unclear. The term "can be" is not a positive limitation.

Regarding claim 11, the size of the "second window" can't be determined since fonts and text size can differ greatly and there is no specific text claimed.

Regarding claim 12, the structural dimensions encompassed by "large enough for one word on one line but not large enough to view two words on two lines" can't be determined. Text fonts (including sizes) and line spacing is greatly varied therefore the dimensions of a "second window" can't be determined. There is no text being positively claimed. The features of "the height" can't be determined, it appears that the window openings of the applicants invention are circular/oval in shape, therefore the dimension referred to as the height is unclear.

In view of the examples above, the applicant is required to carefully review all of the claims in order to correct those having the same or similar defects but not specifically pointed to.

The remainder of the claims are considered as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Butz (EP 1054372 A2). As best understood Butz discloses a reading tool containing all the elements of the claims including adjustable windows (figures 6a and 6b) with a handle portion (figure 5, element 22).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ds
June 10, 2003



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
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